UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
Civil Action No. 08-1690

In Regard to the Matter of:

Opinion/Report

Bayside State Prison Litigation

JULES ROBINSON,

- vs-

WILLIAM H. FAUVER, et al,

Defendants.

MONDAY JUNE 16, 2008

BEFORE THE HONORABLE JOHN W. BISSELL, SPECIAL MASTER

MASTROIANNI & FORMAROLI, INC.

Certified Court Reporting & Videoconferencing

251 South White Horse Pike

Audubon, New Jersey 08106

856-546-1100

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                    Transcript of proceedings in the above
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     matter taken by Theresa O. Mastroianni, Cortified
     Court Reporter, license number 30X100085700, and
 8
     Notary Public of the State of New Jersey at the
     United States District Court House, One Gerry Plaza,
10
     Camden, New Jersey, 08102, commencing at 1:56 PM.
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   APPEARANCES:
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- JUDGE BISSEL: I come now to the
- 2 decision in the matter of Jules Robinson, civil
- 3 number 07-5127.
- 4 This opinion/report is being issued
- 5 pursuant to the directives of the Order of Reference
- 6 to the Special Master and the Special Master's
- 7 Agreement and the guiding principles of law which
- 8 underlie this decision to be applied to the facts
- 9 upon which it is based as set forth in the jury
- 10 instructions in the Walker and Mejias jury charges to
- 11 the extent applicable to the allegations of Mr.
- 12 Robinson.
- 13 As finalized after review under Local
- 14 Civil Rule 52.1, this transcript will constitute the
- 15 written report required in paragraph seven of the
- 16 Order of Reference to a Special Master.
- 17 Mr. Robinson was housed on D and later
- 18 B Units at Bayside during the lockdown and the events
- 19 about which he testified. Mr. Robinson, of course,
- 20 testified at length on the video hookup and his
- 21 Lestimony live was indeed consistent with his
- 22 numerous alleged encounters with Bayside and SOG
- 23 officers during the lockdown.
- 24 The most serious alleged injury about
- 25 which he testified was allegedly due to his genitals

- l being kicked, he said a kick by Officer Kaminski in
- 2 his cell after a court line and back in his cell in B
- 3 Unit. His answers to interrogatories in D-207 spell
- 4 out his story and I need not recount it at length
- 5 here. He said what he said. However, I find that
- 6 there are certain parts of his testimony, both here
- 7 and in D-207, that are so inherently fantastic and
- 8 unbelievable that it leads me to apply and conclude
- 9 under the doctrine false in one false in all that Mr.
- 10 Robinson cannot be said to have sustained his claims
- 11 by any credible evidence.
- 12 I haven't relied solely on his
- 13 testimony, of course. I realize that his cell mate,
- 14 Benjamin Pullin, had testimony that was relevant to
- 15 Mr. Robinson's case. However, as we'll see in a
- 16 moment, T'm not in a position to find in favor of Mr.
- 17 Pullin either for some of the same reasons.
- 18 More particularly, Mr. Robinson's
- 19 testimony about the court line proceedings and the
- 20 events which led up to it are just not credible and .
- 21 not feasible. Its basically presented, once again
- 22 consistent with his testimony here, in the first,
- 23 second and third paragraphs at page two of D-207, and
- 24 I'm going to take a moment to read those into the
- 25 record so that it's perfectly clear to all what I'm

- 1 talking about.
- 2 He says, and I quote: "On 8-1-97 a
- 3 sergeant came to my cell at or about 8:30 AM with a
- 4 charge of conduct which disrupts. The charge states
- 5 I, Jules Robinson, was kicking on my cell door at
- 6 7:05 AM on 7-31-97, complaining about the food the
- $\mathcal{T}$  officers were feeding us, saying bad remarks about
- 8 the murdered officer. I stated to the sergeant that
- 9 I was sleeping in bed. When the door was opened, I
- 10 was walking with a cane and I couldn't kick anything.
- 11 1 did not know Officer Baker so; therefore, I had
- 12 nothing to say about him at all. I asked him to get
- 13 statements from John Maggett, my roommate, as well as
- 14 cell 209 and 211 to see if any noise was coming from
- 15 cell 210.
- 16 "At 8-1-97 at or about 10:30 AM or
- 17 12:30 PM, first shift B Unit Officer Snell and four
- 18 SOG officers came to remove me for Court Line. I was
- 19 ordered to walk with my head down and not to look at
- 20 any of the officers. As J was walking towards B Unit
- 21 Rec Room, one of the SOG officers got inside the
- 22 shower with me. The shower door was closed and I was
- 23 ordered to lean on the shower door, hold on to the
- 24 opening of the door for handcuffing, and put my head
- 25 up against the door as well as my knees. The shower

- 1 door was made like chicken coop fences.
- 2 "At this point, the officer inside the
- 3 door started beating my hands, my forehead, and my
- 4 knees with his night stick. The officer inside the
- 5 shower with me was standing in a batting stance
- 6 behind me with a stick and said if you fall, I'm
- 7 going to beat you and beat you.
- 8 "I asked, 'why are you doing this, I
- 9 didn't do anything.' The officer inside with me said
- 10 'You all did,' as I was screaming and crying out in
- 11 pain. The officer outside the door hitting me said
- 12 'Shut up. We don't hear your cries, just the cries
- 13 of the officer's wife and kids.
- 14 "After about 15 minutes of this torture
- 15 the shower door was unlocked and I was ordered to
- 16 come out with my head down. As I walked up the four
- 17 steps that bring me into B Unit Rec Room, I couldn't
- 18 believe my eyes. There in the middle of B Unit Rec
- 19 Room was a long table. At the table sitting was the
- 20 hearing officer, Lance Meehan, a Bayside Lieutenant
- 21 and countless Bayside and SOG officers standing
- 22 around the Rec Room with a blond-haired woman who I
- 23 now know was ombudsman Ms. Lebak, sitting in the
- 24 corner of the Red Room not seven feet from where I
- 25 was being tortured for 15 minutes or more."

That testimony is just not credible for 1 2 any number of reasons. First, as set forth in 3 exhibit D-222, which I have no reason to disbelieve, Ms. Lebak wasn't there on that occasion. Secondly, Mr. Meehan, who certainly 5 6 would have been in a position to hear this and who 7 testified here and who I have every reason to believe was a conscientious hearing officer with regard to 9 events such as this, particularly given the 10 heightened seriousness of events during this 11 lockdown, would have no reason to lie and he believes 12 he would have heard something like that if it 13 occurred. Certainly with the short distance involved 14 and an opening in the door, there is little doubt 15 that from a distance of seven feet with yelling and screaming after being beaten, whether it's 15 minutes 16

or five minutes or three minutes, would be the sort

knowledgeable about the layout of the premises and

who was present. Whatever their inclinations may

absolutely no sense whatsoever that they would have

beaten this man in that way and thereby imperiled the

have been under other circumstances, it makes

court line hearing to which he was about to be

And of course, the SOG officers were

of thing that he would have heard.

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- 1 subjected.
- 2 At one point also Mr. Robinson offered
- 3 that Mr. Meehan went outside for a smoke. Mr. Meehan
- 4 testified he doesn't smoke. Now, you may say that's
- 5 a small matter, maybe he might have construed that he
- 6 just went outside to take a break or something, but
- 7 it's another piece, if you will, of the puzzle that
- 8 indicates that Mr. Robinson is certainly fabricating,
- 9 at the very least, this event.
- 10 Furthermore, of course, we have his
- 11 testimony with regard to numerous other beatings. I
- 12 count a total of seven others in addition to this and
- 13 that probably is a conservative count. Beginning on
- 14 the 31st of July allegedly and going up through
- 15 approximately the 14th of August, the time he said he
- 16 was kicked in his genitals in the cell. They include
- 17 assaults in the D Unit rec room, being dragged by
- 18 SOGs with a stick under his throat, being punched and
- 19 kicked in the B Unit rec room, being kicked in the
- 20 back while going into a cell, the shower beating and
- 21 torture that I mentioned before, further punchings in
- 22 bis cell at a later time and the assault to his
- 23 genitals. One instance he accused the local housing
- 24 officer, Sergeant Blount, of eye gouging him. Once
- 25 again, the court finds that testimony not to be

- 1 credible in the least.
- Some events involved as he recounted
- 3 them, particularly the court line supposed torture
- 4 testimony is virtually impossible. Others are highly
- 5 illogical.
- 6 While I can understand a possibility of
- 7 some assaultive conduct by SOG officers who are not
- 8 from Bayside, and eventually would be gone and
- 9 couldn't be identified and, indeed, I have found that
- 10 to be true in several cases and may well in the
- 11 future, the testimony of the line officers at Bayside
- 12 is quite telling and once again inherently logical.
- 13 They put themselves at substantial risk for engaging
- 14 in the type of conduct that Mr. Robinson would
- 15 attribute to them. Particularly someone such as Mr.
- 16 Blount.
- 17 It makes no inherent sense whatsoever
- 18 that those officers would engage in assaultive
- 19 conduct knowing that within a matter of weeks the SOG
- 20 officers would be gone, the prisoners with whom they
- 21 interact every single day would still be there and
- 22 they would be outnumbered and unarmed in the prison
- 23 units under normal operating procedures.
- 24 . Remember also that they have the
- 25 reminder of the death of Officer Baker. While on the

- 1 one hand one might say that that would make them
- 2 angry and inclined to seek their own measure of
- 3 revenge, on the other hand, it certainly brings home
- 4 the fact that if for one reason or another a prisoner
- 5 is angered beyond rationality, something such as
- 6 happened to Officer Baker at the hands of Mr. Beverly
- 7 is very possible. So Officer Blount, in connection
- 8 with the alleged incident involving him, took the
- 9 stand and denied it and I find that testimony to be
- 10 credible as well as his testimony generally.
- ll Usually relatively contemporaneous
- 12 statements (and I'll include the interrogatory
- 13 answers with this that are consistent with trial
- 14 testimony) support the accuracy of the trial
- 15 testimony. But here, I find Mr. Robinson's lengthy,
- 16 repeated recounting of so many incidents of
- 17 continuous beatings and torture with all of its
- 18 illogical and impossible connotations just doesn't
- 19 hold water.
- 20 . I tried to figure out why. And really
- 21 while it's not perhaps critical to the decision
- 22 reached here, it certainly appears that this is the
- 23 product of a continuing multiple and growing anger in
- 24 Mr. Robinson emanating from his initial lashing out
- 25 with regard to the food that was delivered on the

Page 12 31st of July. He was his own worst enemy in terms of any escalations beyond that, but in most instances he has fabricated these events for the purpose of 3 seeking his own retribution should he be successful in this action. 5 Although not every item of evidence has been discussed in this opinion/report, all evidence 7 presented to the Special Master was reviewed and considered. For the reasons set forth above I 9 recommend in this report that the district court 10 11 enter an order and judgment of no cause for action 12 with regard to Jules Robinson. 13 14 15 16 1.7 18 19 20 21 22 23 24

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Page 13 1 CERTIFICATE 2 3 I, Theresa O. Mastroianni, a Notary Public and Certified Shorthand Reporter of the State of New 5 Jersey, do hereby certify that the foregoing is a 6 true and accurate transcript of the testimony as taken stenographically by and before me at the time, place, and on the date hereinbefore set forth. 8 9 I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any 10 11 of the parties to this action, and that I am neither 12 a relative nor employee of such attorney or counsel, 1.3 and that I am not financially interested in the 14 action. 15 16 17 18 J.O. Mastrocarne 19 Theresa O. Mastroianni, C.S.R. 20 Notary Public, State of New Jersey My Commission Expires May 5, 2010 21 Certificate No. XIO857 Date: June 17, 2008 22 23 24 25

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